IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2899 OF 2003
IN
SUIT NO.3460 OF 1994

Mohanlal Seth ....Plaintiff
V/s.
Sasikant S. Mehta & Ors. ....Defendants

Ms.M. Diwan i/b Shah & Singhvi for the Plaintiff.
Mr.M.Wamorkar for Defendant No.15.

CORAM : S.J. VAZIFDAR, J.
DATED : 2ND DECEMBER, 2005.

P.C. :

1. This Notice of Motion is taken out by Defendant No.15 for an injunction restraining the other parties to the suit from transferring, alienating or encumbering the suit property.

2. The Plaintiff's case is that he along with Defendant Nos.1 to 13 are the partners of Defendant No.14. The suit was filed for a declaration that the property described in Exhibit "Q" belongs to Defendant No.14 - firm and that he accordingly has a right therein.

3. Notice of Motion No.2109 of 1994 taken out by

the Plaintiff for interlocutory orders in respect of the suit property was dismissed on the ground that the suit is not maintainable in view of the provisions of Section 69 of the Partnership Act. An Appeal from the said order was dismissed. Appeal against the said order of the Division Bench was also dismissed.

4. On this ground alone, this Notice of Motion also deserves to be dismissed.

5. Further Defendant No.15 has taken out this Notice of Motion alleging that he is entitled to furnish the undertakings by an agreement under which he had agreed to purchase this property. Defendant No.15 has not adopted the proceedings thus far to establish his rights. The same cannot be established in the Plaintiff’s suit.

6. In the circumstances, the Notice of Motion is dismissed. Costs to be costs in the cause.